

1970 Bill 127

Third Session, 16th Legislature, 19 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 127

An Act to amend The Landlord and Tenant Act

THE ATTORNEY GENERAL

First Reading

Second Reading

Third Reading

Printed by L. S. Wall, Queen's Printer, Edmonton

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1970

An Act to amend The Landlord and Tenant Act

(Assented to _____, 1970)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. *The Landlord and Tenant Act* is hereby amended.
2. Section 8a is struck out.
3. The following heading and sections are added after section 16:

Tenancies of Residential Premises

17. (1) in this section and sections 18 to 23,
 - (a) "residential premises" means premises used for residential purposes, and does not include premises occupied for business purposes with living accommodation attached under a single lease;
 - (b) "security deposit" means money or any property or right paid or given by a tenant of residential premises to a landlord or his agent or to anyone on his behalf to be held by or for the account of the landlord as security for the performance of an obligation or the payment of a liability of the tenant or to be returned to the tenant upon the happening of a condition;
 - (c) "tenancy agreement" means an agreement between a landlord and a tenant for possession of residential premises, whether written, oral or implied.
- (2) The provisions of sections 3 to 14 in so far as they apply to tenancies of residential premises are subject to this section and sections 18 to 23.
- (3) Sections 18 to 23 apply only to tenancies of residential premises and tenancy agreements notwithstanding any other Act and notwithstanding any agreement or waiver to the contrary except as is specifically provided in sections 18 to 23.

Explanatory Notes

1. This Bill amends chapter 43 of the Statutes of Alberta, 1964. The Bill adds to the Act a number of provisions dealing with tenancies of residential premises.

2. Section 8a deals with the taking and return of damage deposits. It is being re-enacted as section 20 by clause 3 of this Bill. The effect is to have this provision relate to residential tenancies only. Section 8a presently reads:

8a. (1) In this section "damage deposit" means any deposit of money that was given to a landlord by a tenant leasing premises from him and which is refundable on the expiry or termination of the tenancy, subject to such conditions as to deductions therefrom as were agreed to by the tenant.

(2) Where a landlord has received a damage deposit from a tenant in respect of leased premises, then, upon the expiry or termination of the tenancy,

(a) the landlord shall return the deposit to the tenant within 10 days after the tenant delivered up possession of the premises, or

(b) if all or part of the deposit may be deducted in accordance with the conditions agreed to by the tenant, the landlord shall

(i) deliver a statement of account therefor, and

(ii) return the balance of the deposit, if any, to the tenant within 10 days after the tenant delivered up possession of the premises, or

(c) if the landlord is entitled to make a deduction from the deposit for repairs to the premises but is unable to determine the correct amount thereof within 10 days after the tenant delivers up possession of the premises, the landlord may make an estimate thereof and in that case the landlord

(i) shall

(A) deliver an estimated statement of account, and

(B) return the estimated balance of the deposit, if any, to the tenant within 10 days after the tenant delivered up possession of the premises, and

(ii) shall

(A) deliver a final statement of account, and

(B) return the final balance, if any, to the tenant within 30 days after the tenant delivered up possession of the premises.

(3) A person who contravenes subsection (2) is guilty of an offence and liable on summary conviction to a fine of not more than \$100.

(4) Where a landlord fails to return all or part of a damage deposit to a tenant in accordance with subsection (2), then, whether or not a statement of account was delivered to the tenant, the tenant may take proceedings under The Small Claims Act to recover the whole of the deposit or that part of the deposit to which the tenant claims to be entitled, if the amount claimed is within the monetary jurisdiction of the court

(5) In proceedings taken under subsection (4) the magistrate or judge

(a) shall determine the amounts, if any, which the landlord is entitled to deduct from the damage deposit in accordance with the conditions agreed to by the tenant, and

(b) where the deductions so determined are less than the amount of the deposit, shall give judgment in favour of the tenant for the balance.

17. Definitions and application of the new sections 18 to 23.

18. (1) Where a tenancy agreement in writing is executed by a tenant after the commencement of this section, the landlord shall ensure that a fully executed duplicate original copy of the tenancy agreement is delivered to the tenant within 21 days after its execution and delivery by the tenant.

(2) Where the copy of the tenancy agreement is not delivered in accordance with subsection (1), the obligations of the tenant thereunder cease until such copy is delivered to him.

19. (1) A landlord holds each security deposit paid or given to him or his agent, or to anyone on his behalf, as trustee for the tenant but subject to the provisions of this Act and the tenancy agreement and any other agreement pertaining to it.

(2) Where the security deposit consists of money, the landlord may invest the money in investments authorized by *The Trustee Act* for the investment of trust funds.

(3) Subject to subsection (4) a landlord shall pay annually to the tenant interest on a security deposit consisting of money held by him or his agent or anyone on his behalf at the rate of 6 per cent per year.

(4) Where the security deposit consists of money, a tenant may notify his landlord in writing that he elects not to have the interest on the security deposit paid annually as provided in subsection (3) and in that case

(a) subsection (3) does not apply, and

(b) the landlord shall pay to the tenant interest on the security deposit at the rate of 6 per cent per year compounded annually and such interest shall be payable on the termination or expiration of the tenancy, unless otherwise agreed between the landlord and the tenant.

(5) The landlord is entitled to retain any interest and profit resulting from the investment of a security deposit in excess of the amount of interest payable under subsection (3) or (4).

(6) Where the landlord and the tenant agree that interest shall be payable under this section at a rate of interest higher than 6 per cent per year, subsections (3), (4) and (5) shall be deemed to refer to the higher rate.

(7) This section applies to security deposits paid or given before or after the commencement of this section.

20. (1) Where a landlord holds a security deposit, then, upon the expiry or termination of the tenancy,

18. Delivery of executed copy of a tenancy agreement to the tenant within 21 days of execution by the tenant.

19. A landlord will hold security deposits as trustee and will be required to pay interest on the deposits at 6% per year, either annually or termination of the tenancy, whichever the tenant chooses.

20. Return of security deposit. See clause 2 of this Bill and section 8a of the Act shown in the note.

- (a) the landlord shall return the security deposit to the tenant within 10 days after the tenant delivered up possession of the premises, or
 - (b) if all or part of the security deposit may be deducted in accordance with the conditions agreed to by the tenant, the landlord shall
 - (i) deliver a statement of account therefor, and
 - (ii) return the balance of the deposit, if any, to the tenant within 10 days after the tenant delivered up possession of the premises, or
 - (c) if the landlord is entitled to make a deduction from the security deposit for repairs to the premises but is unable to determine the correct amount thereof within 10 days after the tenant delivers up possession of the premises, the landlord may make an estimate thereof, and in that case the landlord
 - (i) shall
 - (A) deliver an estimated statement of account, and
 - (B) return the estimated balance of the deposit, if any, to the tenant within 10 days after the tenant delivered up possession of the premises, and
 - (ii) shall
 - (A) deliver a final statement of account, and
 - (B) return the final balance, if any, to the tenant within 30 days after the tenant delivered up possession of the premises.
- (2) A person who contravenes subsection (1) is guilty of an offence and liable on summary conviction to a fine of not more than \$100.
- (3) Where a landlord fails to return all or part of a security deposit to a tenant in accordance with subsection (1), then, whether or not a statement of account was delivered to the tenant, the tenant may take proceedings under *The Small Claims Act* to recover the whole of the deposit or that part of the deposit to which the tenant claims to be entitled, if the amount claimed is within the monetary jurisdiction of the court.
- (4) In proceedings taken under subsection (3) the magistrate or judge
- (a) shall determine the amounts, if any, which the landlord is entitled to deduct from the security deposit in accordance with the conditions agreed to by the tenant, and
 - (b) where the deductions so determined are less than the amount of the deposit, shall give judgment in favour of the tenant for the balance.

(5) In this section, "security deposit" includes any amounts owing to the tenant as interest by virtue of section 19 at the time of the termination or expiration of the tenancy.

21. Except in cases of emergency and except where the landlord has a right to show the premises to prospective tenants at reasonable hours after notice of termination of the tenancy has been given, the landlord shall not exercise a right to enter the rented premises unless he has first given written notice to the tenant at least 24 hours before the time of entry, and the time of entry shall be during daylight hours and specified in the notice, except that nothing in this section shall be construed to prohibit entry with the consent of the tenant given at the time of entry.

22. (1) After March 31, 1970, a landlord shall not increase the rent payable under a tenancy agreement, or be entitled to recover any additional rent resulting from such an increase, unless he gives to the tenant a written notice of the increase in rent at least 90 days before the date on which the increase is to be effective.

(2) Subsection (1) does not apply where the tenancy agreement provides for a period of notice longer than 90 days before the increase in rent is effective.

23. (1) the council of a city, town, village, municipal district or county, or the board of administrators of a new town, may by by-law establish a Landlord and Tenant Advisory Board and provide for the remuneration of its members and any other matters pertaining to its procedures or incidental to the exercise of its functions.

(2) The functions of a Landlord and Tenant Advisory Board are

- (a) to advise landlords and tenants in tenancy matters,
- (b) to receive complaints and seek to mediate disputes between landlords and tenants,
- (c) to disseminate information for the purpose of educating and advising landlords and tenants concerning rental practices, rights and remedies, and
- (d) to receive and investigate complaints of conduct in contravention of legislation governing tenancies.

4. (1) Except as provided in subsections (2) and (3), this Act comes into force on the day upon which it is assented to.

21. Circumstances where the landlord is permitted entry to the leased premises. Prior written notice of 24 hours is required except as provided in the section.

22. A landlord will be required to give 90 days notice of an increase in rent. As to the date of this amendment, see clause 4 of this Bill.

23. Under the new section 23, a municipality may establish a Landlord and Tenant Advisory Board to exercise the functions enumerated in subsection (2).

24. The effect of the commencement section is to have the amendments come into force on July 1, 1970 except for the new section 22 dealing with rent increases, which is made retroactive to the date on which the Bill was introduced.

(2) Upon coming into force, sections 17 and 22 of *The Landlord and Tenant Act*, as enacted by section 3 of this Act, shall be deemed to have been in force at all times on and after April 1, 1970.

(3) Section 2 of this Act and sections 18, 19, 20, 21 and 23 of *The Landlord and Tenant Act*, as enacted by section 3 of this Act, come into force on July 1, 1970.

